

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
PACIFIC GRINDING WHEEL CO., INC.,)
)
Appellant,)
)
v.)
)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
)
Respondent.)

PCHB No. 1003

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

Nature of Case: \$100.00 civil penalty for allegedly causing or
allowing excessive smoke from a curing kiln.

Formal Hearing: August 23, 1976, Everett, Washington.

Board Members Present: Chris Smith, Chairman, and Art Brown.

Presiding Officer: David A. Akana, Hearings Officer.

Court Reporter: Jenny Roland.

For Appellant: Robert Easton, Manager.

For Respondent: Keith D. McGoffin, its attorney.

RULING ON MOTION

Respondent PSAPCA's motion to dismiss for failure to comply with appeal procedures, filed on April 12, 1976 is denied. RCW 43.21B.120 provides that an order issued by an air pollution control authority is final unless such order is appealed to the Hearings Board created pursuant to chapter 43.21B RCW within 30 days after service. RCW 43.21B.230 provides for the "perfection" of the appeal "within the time specified herein." This latter provision is not jurisdictional in nature.

FINDINGS OF FACT

1. On February 20, 1976, in Marysville, Washington, appellant caused or allowed the emission of an air contaminant of 40 percent opacity for a period of 15 consecutive minutes from its No. 1 curing kiln.

2. Appellant had no knowledge of the incident and had no explanation for the emissions which we find to have occurred. Appellant's kiln appeared to be properly functioning and no unusual product was being processed at the time of the incident. Appellant's afterburner, which is used to incinerate the incompletely burned organic material from the kiln and thus, to comply with air pollution control laws, was not operating. The reason that the afterburner was not turned on was because the temperature leaving the kiln was high enough to insure combustion of organic materials originating from the kiln. The fact remains, however, that despite appellant's efforts, there was a visible emission from its stack. Appellant is now on notice that its assumptions regarding the proper operation of this equipment are not

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valid.

3. In view of appellant's record, which includes one civil penalty, the \$100.00 civil penalty is reasonable.

CONCLUSIONS OF LAW

1. Pursuant to RCW 43.21B.260, respondent has filed a certified copy of its regulation which we notice.

2. Appellant violated Section 9.03(b) of respondent's Regulation 1 for which a fine was properly assessed pursuant to Section 3.29 thereof.

3. The action of respondent assessing a \$100.00 civil penalty upon appellant should be affirmed.

ORDER

The \$100.00 civil penalty is hereby affirmed. However, the entire penalty is suspended and shall not become due upon condition that appellant incur no further penalties for a period of six months from the date that this order becomes final.

DATED this 3d day of September, 1976.

POLLUTION CONTROL HEARINGS BOARD


CHRIS SMITH, Chairman


ART BROWN, Member

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